

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENT**Docket Number (Optional)  
02921-001110US**RECEIVED  
CENTRAL FAX CENTER****OCT 12 2005**

In re Application of: Victor B. Kley

Application No.: 10/047,454

Filed: January 14, 2002

For: SCANNING PROBE MICROSCOPE ASSEMBLY AND METHOD FOR MAKING SPECTROPHOTOMETRIC, NEAR-FIELD, AND SCANNING  
PROBE MEASUREMENTS

The owner, General Nanotechnology LLC, of 100  
percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent  
granted on the instant application, which would extend beyond  
the expiration date of the full statutory term prior patent No. 08/776,381 as the term of said prior patent is defined in 35 U.S.C. 154  
and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so  
granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This  
agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that  
would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior  
patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 28,572

David Slone  
Signature

October 12, 2005  
Date

David N. Slone  
Typed or printed name

650-326-2400  
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

**WARNING:** Information on this form may become public. Credit card information should not  
be included on this form. Provide credit card information and authorization on PTO-2038.

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

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Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). <b>FEE TRANSMITTAL</b> <b>For FY 2005</b>		<b>Complete if Known</b> Application Number <b>10/047,454</b> Filing Date <b>January 14, 2002</b> First Named Inventor <b>Kley, Victor B.</b> Examiner Name <b>Thanh X Luu</b> Art Unit <b>2878</b> Attorney Docket No. <b>020921-001110US</b>	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		<b>RECEIVED</b> <b>CENTRAL EX CENTER</b> <b>OCT 12 2005</b>	
<b>TOTAL AMOUNT OF PAYMENT</b> <b>(\$)</b> <b>65</b>			

**METHOD OF PAYMENT (check all that apply)**

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_  
☒ Deposit Account Deposit Account Number: 20-1430 Deposit Account Name: Townsend and Townsend and Crew LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee  
☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

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**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Small Entity		Small Entity		Small Entity		
	Fee (\$)	Fee (\$)	Fee (\$)	Fee (\$)	Fee (\$)	Fee (\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

**2. EXCESS CLAIM FEES****Fee Description**

	Small Entity	
	Fee (\$)	Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

**Total Claims** **Extra Claims** **Fee (\$)** **Fee Paid (\$)** **Multiple Dependent Claims**  
 \_\_\_\_\_ -20 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_  
 HP = highest number of total claims paid for, if greater than 20  
**Indep. Claims** **Extra Claims** **Fee (\$)** **Fee Paid (\$)**  
 \_\_\_\_\_ -3 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_  
 HP = highest number of independent claims paid for, if greater than 3

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

**Total Sheets** **Extra Sheets** **Number of each additional 50 or fraction thereof** **Fee (\$)** **Fee Paid (\$)**  
 \_\_\_\_\_ - 100 = \_\_\_\_\_ / 50 = \_\_\_\_\_ (round up to a whole number) x \_\_\_\_\_ = \_\_\_\_\_

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other: Statutory Disclaimer

65

<b>SUBMITTED BY</b>		
Signature	<u>David Slone</u>	Registration No. (Attorney/Agent) <u>28,572</u>
Name (Print/Type)	<u>David N. Slone</u>	Telephone <u>650-326-2400</u>
		Date <u>October 12, 2005</u>

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